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The Daily Press

Hankow, July 20th, 1871.

As is naturally to be expected, the sentiments of the Community have been widely divided with reference to the action of Kwox-ai-sing versus the Attorney-General. The case has been looked upon by the general public in a light quite apart from its strictly legal bearing. It has been impossible to dissociate from it the circumstances which were brought to light on the trial of Kwox-ai-sing on *habes corpus*; and the case of the Plaintiff thus stood from the first at an undoubted disadvantage. How far feelings of this kind may be justifiably imported into the consideration of a case, is a very nice question; but if the Jury were possibly too much influenced by them to pay as much regard as some might have wished to the dry logic of the question as set before them by Mr. FRANCIS, they at least had a good example of allowing feeling to enter into the matter in the case of the *Attorney-General*, who was not only not concerned, but more than once openly avowed, the strong sentiments by which his mind was influenced. Whilst certain limits feeling may be perhaps admissible upon the part not only of a Jury, but even of a Judge. It is at times but a more rapid and a wider species of judgment; but it is notoriously apt to mislead and to prevent a sound conclusion being arrived at. It is not, however, very difficult to discern the point at which feeling in regard to a given question is excusable, and where it oversteps that limit. In dealing with the *Attorney-General* in his judgment with regard to Kwox-ai-sing on the *habes corpus*, we could sympathize with the feelings which in the opinion of many competent persons misled his judgment. It is natural for a man of thought and intelligence to have a horror of such an abomination as the *coolie* traffic. But in the feeling which he displayed in reference to the case just concluded, few, we think, will have any particular sympathy. That Kwox-ai-sing stands attainted with very great crimes is known to everyone, and even the calm manner in which his Counsel introduced him as "a trader in this city," could scarcely be expected to dissipate old ideas. There is some talk to the effect that Kwox-ai-sing does not like to be resident in Hongkong twenty years, and has never left it; but it is very strange that this circumstance should have been mentioned before. It would at least have been a good point to have proved in the case against Mr. FRANCIS, and would have made the error which it was alleged he committed appear in a far more severe light than under the circumstances as they were generally understood. As the *Attorney-General* should display any bias in favour of a penalty being wreaked on Mr. FRANCIS for endeavouring to bring a man like Kwox-ai-sing to trial, forced a demonstration of feeling from which good sense must revolt. On the other hand, the feeling which must have influenced the Jury to some extent that the claimant of the penalty was not exactly the man to whom the Colony of Hongkong would be desirous to present \$500, was one not unnatural, and likely to assist them rather than the contrary in arriving at a really sound conclusion on the matter. Evidently aware that there was strong likelihood that the common sense of the Jury would induce them to give their verdict for the defendant, if they possibly could so, the *Attorney-General* from the first displayed great anxiety to limit to the utmost the points that should go to them; and but for the skill of the defendant's Counsel would have succeeded in keeping out of their hands the one point to which the case ultimately narrowed itself, namely, whether the *Attorney-General* acted "knowingly" contrary to the sixth section of the *Habes Corpus Act*, the Judge emphatically laying it down that the Act fully applied. Even this one point was split into two, the *Attorney-General* claiming that he should judge whether there was constructive knowledge. However a door, though a narrow one, was left open—large enough to allow four jurors to pass through—and whatever may be the exact technicalities of the case, Hongkong was saved from displaying to the world the monstrous stain of awarding \$500 to a man who, if evidence never yet controverted it to be believed, is guilty of a deed which, whatever the *Attorney-General* may hold, the public regard as a most execrable crime. Except on the supposition of a mistaken identity, which, as above observed there was every reason to have proved, but which was not proved at the trial just concluded, Kwox-ai-sing was the man who murdered the Captain of the *Novelle Penelope*, and it would be something startling that for this country we should give him so much money. So far as this part of the case is concerned, we believe there is reason for congratulation; and the point of whether the act was done knowingly or not being submitted to the Jury, they were, we think justified in construing the statute favourably for the defendant, and adopting the view that he had not re-arranged the prisoner knowing that in doing so he was acting illegally. The truth is, the present act is a natural sequence of the decision on *habes corpus* given by the *Attorney-General*, upon which much comment has already been made. As pointed out by Mr. HARTMAN, one of the chief inconsistencies in that decision—if it was to be taken as final—was that it disposed of the facts as well as the law of a criminal case which was avowedly decided upon the principles not of foreign, but of English law. Notwithstanding the elaborate judgment of the *Attorney-General*, and his careful consideration of the subject, Kwox-ai-sing stands attainted to the present day. Knowing this would be the case when the French Consul abandoned his charge, it is not surprising that the *Attorney-General* should have strained every nerve to prevent what he conceived to be a defeat of justice; and if in doing so he, through an oversight, rendered himself obnoxious to a clause in a statute—a clause which for 200 years has never been acted upon—it would be going too far to say that he did so with the evil intention which the *Habes Corpus Act* is designed to frustrate—the intention, that is, of keeping men in prison to prevent their being brought up for trial, not of arresting them so that they may be produced before a constitutional tribunal, and fairly and impartially put upon their trial at the earliest possible moment. It may be contended that in one sense it is likely the *Attorney-General* acted knowingly; that is to say, that having had his attention called to the *Habes Corpus Act* by the proceedings in the Supreme Court, it was likely that the clause under which the suit was brought, would have come recently to his notice; but, as put by his able Counsel, it was open to grave doubt whether the clause could be held to apply in Hongkong at all, if it were not utterly absolutely obsolete; while there was certainly very reasonable ground to hold that at the time Kwox-ai-sing was arrested on the second occasion, that the two offences with which he was "succeeding" charged were different, though in the judgment, which was delivered subsequently, the *Attorney-General* held them to be the same. We are no defenders of high handed action on the part of government officials, but few people will be disposed to doubt that the *Attorney-General* was justified in using his utmost endeavours to prevent a defeat of justice, or that, in a case, where there was no intention to do more than to bring up a man to be tried as quickly as possible, it would have been no less logical than unjust to punish him under a statutory clause, designed to prevent officials and others from doing the exact opposite, to what he did that in keeping men back in order to prevent their being fairly tried.

On the 19th inst., the *Attorney-General* was in the Supreme Court, it was likely that the clause under which the suit was brought, would have come recently to his notice; but, as put by his able Counsel, it was open to grave doubt whether the clause could be held to apply in Hongkong at all, if it were not utterly absolutely obsolete; while there was certainly very reasonable ground to hold that at the time Kwox-ai-sing was arrested on the second occasion, that the two offences with which he was "succeeding" charged were different, though in the judgment, which was delivered subsequently, the *Attorney-General* held them to be the same. We are no defenders of high handed action on the part of government officials, but few people will be disposed to doubt that the *Attorney-General* was justified in using his utmost endeavours to prevent a defeat of justice, or that, in a case, where there was no intention to do more than to bring up a man to be tried as quickly as possible, it would have been no less logical than unjust to punish him under a statutory clause, designed to prevent officials and others from doing the exact opposite, to what he did that in keeping men back in order to prevent their being fairly tried.

POLICE INTELLIGENCE.
19th July.
BROTHEN J. RUSSELL, Esq.
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SUPREME COURT.
July 19th.
BROTHEN J. RUSSELL, Esq.
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HONGKONG GAMBLING.
(Daily Telegraph, 27th May.)
There are gambling-houses in Hongkong, and many people think that it is as dangerous to go to a gambling-house as it is to go to a school. The fact is, however, that there are no gambling-houses in Hongkong, and that the only place where people can go to gamble is the street. The fact is, however, that there are no gambling-houses in Hongkong, and that the only place where people can go to gamble is the street.

HOME NEWS.
(Summaries from the *London Daily News*.)
Yesterday a dog was opened at the Crystal Palace, and the exhibition, whether the shape, size, or quality of the animal is important, is a matter of course, to gratify a love of the canine species. In the Tribune case yesterday the claimant underwent a long and searching cross-examination at the hands of the Solicitor-General. The witness in the case yesterday was a man named Wagg, who was charged with having stolen a large amount of property which was not in existence. He explained that Mr. Gibb, who was the claimant, had been in the habit of giving him money, and that he had been in the habit of giving him money, and that he had been in the habit of giving him money.

THE EDINBURGH CHAMBERS.
MEMORIAL.
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